

Section 12. MAINTENANCE, REPAIRS, RECONSTRUCTION & DRAINAGE

12.1 It shall be the policy of the Town to maintain and repair Class V highways in so much as possible with the manpower, equipment and resources available. However, nothing in this Section shall be construed as an obligation on the part of the Town to be liable for any lack of maintenance or repairs as may be permitted by State Law.

12.2 The Town shall not maintain any Class VI highways or any other roads that are not listed in the Town Inventory. (See Section 8) However, nothing in this Section shall prohibit the Town from performing maintenance on Town owned parking areas.

12.3 The following policy is made with regards to Winter Roads: Prior to October 1st of every year, the Highway Agent shall notify, in writing, appropriate abutters to Winter Roads of all deficiencies in surface conditions which must be corrected at the expense of the abutters, prior to winter maintenance by the Town taking place. If the conditions are not corrected to the satisfaction of the Highway Agent on or before November 15th, the Town shall not perform any winter maintenance, nor shall the Town assume any liability whatsoever for damages which may result due to a lack of maintenance.

12.4 It is the responsibility of every motorist to operate a motor vehicle in a reasonable and safe manner, based upon road and weather conditions. The Town assumes no responsibility for poor judgment or lack of due care which may result in property or personal damages as a result of travel on a public highway, including but not limited to winter hazards, road reconstruction activity, missing or malfunctioning traffic signal devices, poor drainage, washboards and other surface conditions, fallen trees, lack of guardrails, broken or defective guardrails, frost heaves, debris, rocks, ledge, mud, dust, animals in the road, sand, etc.

12.5 The Highway Agent shall respond to all written or verbal notifications of highway or sidewalk insufficiencies in the following manner:

- (a). Within eight (8) hours, cause proper danger signals to be placed to warn persons of the problem by day and night; and
- (b) Within seventy-two (72) hours, develop a plan to make necessary repairs; and
- (c) Implement the repair plan in good faith and with reasonable dispatch until the problem is permanently fixed.

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12.6 The time period for a "notice" shall begin whenever any Town official discovers an insufficiency or is notified by a member of the public (whether in writing or over the telephone or in person) that a hazard exists.

12.7 The Town shall not be liable for damages, nor shall the Town pay any monetary amounts (absent a court order) for damages which may result from a hazard for which the Town had no previous notice or knowledge thereof.

12.8 The Town shall not be liable for any damages, nor shall the Town pay any monetary amounts (absent a court order) for damages which may result from snow or ice hazards, provided the Highway Agent is responding to inclement weather conditions in accordance with the following procedures:

- (a) Top priority shall be given to winter maintenance on primary travel routes as listed below:

Alton Mountain Road
Alton Shores Road
Avery Hill Road
Chestnut Cove Road
Coffin Brook Road
Dudley Road

Fort Point Woods Road
Halls Hill Road Muchado
Hill Road New Durham
Road Old Wolfeboro Road
Prospect Mountain Road
Rand Hill Road
Roberts Cove Road
Route 11-D

Stockbridge Corner Road
Trask Side Road
Valley Road
Woodlands Rd

- (b) Preference shall then be given to emergency maintenance situations based upon a determination that imminent harm may be likely to befall the general public.

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- (c) In most circumstances, sanding operations will not begin until snow removal has been completed to the greatest extent possible.
- (d) As a general rule, the Town will use salt sparingly at the sole discretion of the Highway Agent, and in a manner similar to the application of sand.
- (e) The following paved Class V highways will not receive any de-icing agent applications, including salt, except under extraordinary circumstances as may be determined by the Highway Agent:

Alton Mountain Road (in the vicinity of Morse Farm)
Barnes Avenue
Coffin Brook Road
Gilman Corner Road (between Route 28 and Drew Hill Road)
Jesus Valley Road
Powder Mill Road
Quarry Road Rand
Hill Road Range
Road
Rines Road
Riverlake Street Route 11-D
Stagecoach Road
Tom Road

12.9 The Town shall conduct snow and ice maintenance on public sidewalks only upon completion of highway maintenance operations to the extent that manpower and equipment is available.

12.10 During such times as when the Highway Department is performing winter maintenance operations, on-duty Police Officers shall monitor the Highway Department radio frequency.

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12.11 In the event of reports of hazardous road conditions or during inclement weather situations which occur when the Highway Department is not on-duty, the following procedures shall be used:

- (a) Investigations and monitoring shall be conducted by Police Officers;
- (b) The on-duty Police Officer shall use his/her best judgment to determine if the Highway Agent or acting representative needs to be contacted;
- (c) A hazard shall only be declared when road conditions pose a clear and immediate danger to motor vehicle travel when unsafe at an appropriate speed;
- (d) The Highway Department respondent shall be given precise and accurate directions to the scene of a hazard, to include a description of the nature of the hazard.

12.12 The Town shall not be liable for any damages, nor shall the Town pay any monetary amounts (absent a court order) for damages which may result from snow removal operations to private property, structures, fixtures, or landscaping improvements which are located within a right-of-way.

12.13 The Town has no duty of care whatsoever with respect to the construction, maintenance, or repair of Class VI highways, roads closed subject to gates and bars, discontinued highways or state highways. The Town may, however, at its own discretion, seek to enforce any applicable regulation or its rights of ownership as they may pertain to such rights-of-way to prevent conduct which may be detrimental to public safety or result in damages.

12.14 The Town has no duty whatsoever with respect to the construction, maintenance, use, obstruction, repair or enforcement of deed covenants pertaining to private rights-of-way. The Town will not intervene or get involved in disputes with regards to such matters.

12.15 The Town shall not be liable for any damages, nor shall the Town pay any monetary amounts (absent a court order) for damages which may result from (a) acts or omissions resulting from adherence to these policies and regulations; (b) acts or omissions constituting the exercise of a legislative or judicial function; and (c) the exercise of an executive or planning function involving the making of a basic policy decision which is characterized by the exercise of a high degree of official judgment or discretion.

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12.16 In all cases where the Town does not possess deeded drainage easements, it shall be presumed by the Town that all existing highway drainage devices (as of January 1, 1995) which pass onto private property from a Town right-of-way have been heretofore previously established by prescription, and that these prescriptive rights shall exist in perpetuity to be improved, maintained and reconstructed as may be necessary.

12.17 In so much as possible, the Town shall use the drainage easement form contained herein whenever a non-existing drainage means is required for the safety of the public.

12.18 In cases where a person wants the Town to reduce or eliminate its level of road maintenance through a change in highway status, petitions may be submitted in the form of a warrant article for consideration by the voters at the next annual Town Meeting.

12.19 The Highway Department is hereby authorized to remove any and all trees, other vegetation (including soil and lawns) or structures within a Town right-of-way, to the extent that such acts are necessary for public safety and road maintenance. The Town shall notify all abutting landowners with road frontage of pending tree removal operations, at least seventy-two (72) hours in advance, except in the event of an emergency or when the Town possesses a warranty deed to the right-of-way in which case the Town may proceed without prior notification. Landowners along easement rights-of-way who do not object in writing shall be deemed to have authorized the Town to cut and shall waive any claims for damages, or they may petition the Selectmen for compensation. Landowners along easement rights-of-way who prevent the Town from removing trees shall be liable for any damages which may result. Trees which have been cut shall be stacked in four foot (4') lengths adjacent to where they have been cut, for landowner use. All other brush, woodchips and debris shall be conveniently and neatly disposed, except for stumps which shall only be removed by the Town if necessary for road maintenance. Landscaping improvements may be repaired by the Town to the extent that budgeted funds are available, except for structures which were not previously authorized. The Town shall restore legal driveways and repair historic rock walls when impacted due to its road maintenance operations.

12.20 The removal of illegally disposed of trash from Town rights-of-way, shall be the responsibility of Highway Department employees during the normal course of operations, upon being made aware of a problem. However, during such times as when trash is found on a Town right-of-way in such a manner as to pose an immediate threat to public safety when the Highway Department is not on-duty, the responsibility for removal of such items shall be with the Police Department. The Animal Control Officer shall be responsible for the removal of dead animals upon notification by any person.

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12.21 The Board of Selectmen may, upon request for a traffic warning sign on any public street or a street name sign on a private road, authorize the Highway Department to install such signs as may be deemed appropriate, provided there is an overwhelming public safety issue and the person making the request agrees to purchase the sign, post, brackets, etc. In addition, the Highway Department may replace any such missing sign previously installed, provided no public funds are used to purchase any materials. The provisions of Section 9.8 shall also apply to this Section.

12.22 During such times as the Town has contracted for or is engaged in maintenance activities on any Class V Highway, the Highway Agent is authorized to temporarily close said road by the erection of barricades and/or signs. Residents of the road will be accommodated to the greatest extent possible.

12.23 During such times as adverse weather conditions render public passage over a Class V or Class VI highway as unsafe or if irreparable damage to a Town road is likely to result from vehicle travel regardless of weight, the Highway Agent is authorized to temporarily close said road by the erection of barricades and/or signs.

12.24 The Town shall not be liable for any damages which may result from any person ignoring a road closed sign. The penalty for a breach of Section 12.22 or 12.23 shall be a violation and a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), in accordance with State Law.

12.25 The Highway Agent shall be authorized to repair private driveways by installing fill and gravel in order to restore access to private property if a wash-out has occurred as a result of a deficient drainage structure located within a Town right-of-way. Under these circumstances, the Town shall not install or pay for the installation of pavement, nor shall the Town assume any responsibility for clean-up.